IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

THURSDAY, THE 8TH MARCH 2007 / 17TH PHALGUNA 1928

WP(C).No. 7770 of 2007(Y)

PETITIONER:

P.VASUDEVAN,
PROPRIETOR, AUTO MECS, KAKKAD ROAD, THANA,
KANNUR, RESIDING AT ARADHANA, ONDEN PARAMBA,
PUZHATHI AMSOM DESOM, KANNUR TALUK & DISTRICT.

BY ADV. SRI.K.M.FIROZ

RESPONDENTS:

1. **THE STATE OF KERALA, REPRESENTED BY**
   SECRETARY TO GOVERNMENT, TAXES DEPARTMENT,
   SECRETARIAT, THIRUVANANTHAPURAM.

2. **THE SALES TAX INSPECTOR,**
   COMMERCIAL TAX CHECK POST, MUTHANGA.

BY SR.GOVT.PLEADER SMT. M.K. PUSHPALATHA

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 08/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1:	**COPY OF THE REGISTRATION CERTIFICATE DTD. 28/02/1977 ISSUED BY THE GENERAL MANAGER, INDUSTRIES CENTRE, CANNANORE.**
EXT.P2:	**COPY OF THE INVOICE NO.3791 DTD. 12/02/2007.**
EXT.P3:	**COPY OF THE NOTICE NO.OR 222/06-07 DTD.22/02/2007.**
EXT.P4:	**COPY OF OBJECTION DTD. 26/02/2007.**
EXT.P5:	**COPY OF THE COMPLAINT DTD. 27/02/2007.**

/TRUE COPY/

KSS

K.BALAKRISHNAN NAIR,J.

WP(C)NO.7770 OF 2007-Y

Judgment

The petitioner has placed orders with M/s.Vishkarma Engineers, Chandigarh for supply of a machine for his workshop. The said machine has been consigned in the name of the petitioner by the manufacturer. Ext.P2 is the said invoice. When the consignment reached Muthanga Checkpost, the 2nd respondent detained it and issued Ext.P3 notice to the petitioner through the driver of the vehicle, calling upon him to furnish security for an amount of Rs.8,550/-. This Writ Petition is filed, challenging Ext.P3. The reason given in Ext.P3 for the detention is that the consignee is not a registered dealer under the KGST Act or the KVAT Act. The petitioner submits, the same is not a ground to detain the consignment. He is transporting only a single piece of machine and that too, for his own use. Therefore, it is a genuine transport for his own use, it is submitted.

2. I heard the learned Government Pleader also. I am prima facie satisfied that the detention of the consignment for the reasons stated in Ext.P3 is not valid. Accordingly, the 2nd respondent is directed to release the consignment covered by Ext.P3 to the petitioner on executing a simple bond without sureties. If so advised, the Commercial Taxes Officer, Enquiry will be free to finalise the proceedings initiated against the petitioner by issuing Ext.P3.

The Writ Petition is disposed of as above.

08.03.2007 **K.BALAKRISHNAN NAIR,JUDGE**

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